

COMPLIANCE UPDATE

Producer Compensation Disclosure Requirements By State

In recent months, several states have adopted legislation regarding producer compensation, most of which are identical or similar to the Producer Compensation Disclosure section of the NAIC Producer Licensing Model Act. With a few noted exceptions, most of the states' legislation addresses the circumstance where a producer may also receive compensation directly from the customer. Due to the varying disclosure requirements each state has imposed, we have attached a grid, according to state, listing what type of disclosure is required and whether there are any differences from the NAIC Producer Compensation section or any required disclosure forms to be filled out.

The compensation disclosure section of the NAIC model does not specify the form of the disclosure (verbal or written), however, in either case we recommend that you document your files to reflect that the disclosure was made. We also recommend that you keep records of all such compensation-related disclosures and acknowledgments in your customer files. They should not be sent or submitted to the home office.

Any recent updates to the grid regarding producer compensation disclosures will be in **bold** text.

Please contact the AIG Life Brokerage Compliance area if you have any questions.

PRODUCER COMPENSATION DISCLOSURE REQUIREMENTS BY STATE

NAIC	NAIC PRODUCER COMPENSATION: GENERAL REFERENCES	Compensation Disclosure Forms
	<p>If a producer or an affiliate receives compensation from both the customer and from the insurer or other 3rd party, prior to the placement of insurance they must:</p> <ul style="list-style-type: none"> o Obtain documented acknowledgement from the customer for such compensation prior to the placement of insurance o Disclose the amount of compensation from the insurer or other 3rd party for the placement of the insurance o If the amount of compensation from the insurer or other third party is not known at the time of disclosure, the producer must disclose the specific method for calculating the compensation, and if possible, a reasonable estimate of the amount* o Keep documentation in your files that the disclosure was made to the customer <p>Disclosure requirements do not apply to:</p> <ul style="list-style-type: none"> o Any licensed person that acts as an intermediary between the insurer and the producer o Any compensation received for the placement of insurance in secondary or residual markets <p>*As a general statement, compensation is calculated based upon a contractual arrangement between the company or other 3rd party and the producer, the amount of which varies depending on the product type, face amount and other factors.</p>	No form specified

State	Differences from NAIC Producer Compensation General References (Refer to top grid section for NAIC Model requirements)	Compensation Disclosure Forms
Arkansas	<p>Refer to the Arkansas Insurance Department bulletin 5-2005 titled "Producer Compensation Disclosures"</p> <ul style="list-style-type: none"> o Disclosure of information on form is recommended. o Disclosure of certain commission information is required even if no compensation has been received from the customer 	Producer Compensation Worksheet – AGLC101726
Connecticut	<p>No compensation, other than commission deducted from insurance policies or contracts, is allowed unless such right to compensation is based upon a written memorandum that:</p> <ul style="list-style-type: none"> o Specifies or clearly defines the amount or extent of such compensation o Discloses that a commission may also be paid from the sale of the insurance policy or contract o Is signed by the party to be charged the compensation 	No form specified by state
Georgia	(no difference from the NAIC Producer Compensation General References – see top of grid)	
Illinois	<p>Written disclosure is required prior to the policy delivery</p> <ul style="list-style-type: none"> o Signature of the consumer or contracting parties is only required if combined compensation from client, insurer and 3rd party exceeds 10% of the premium amount o If the policy is cancelled within 90 days from inception, the producer/entity must give a prorated refund of the fee charged to the client no later than 30 days from cancellation. o Disclosure documentation must be retained by the producer or entity for at least 7 years from policy issuance 	No form specified by state
Indiana	<p>An insurance producer may not receive compensation for the sale, solicitation, negotiation or renewal of any insurance policy for whom the producer acts as a consultant, for a fee, for that policy unless the producer provides a written agreement to the insured before any services are performed. The agreement should include the following:</p> <ul style="list-style-type: none"> o That the producer will receive compensation for the sale of the policy o Fees in which consultant services were provided to the insured o Nature of the work to be performed by the consultant 	

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	<ul style="list-style-type: none"> o Method of compensation of the consultant o Signature of the insured <p>A copy of the agreement must be retained by the producer for at least two (2) years after the completion of the services.</p>	
Minnesota	<p>Must disclose:</p> <ul style="list-style-type: none"> o The services for which client fees are charged o The amount of the client fees for such services o That fees are in addition to commission o That premiums include commission 	No form specified by state
Nevada (Nevada con't)	<p>Before or simultaneously before the purchase of insurance or before any other transaction that would entitle the producer to compensation as a result of representing the client, the producer must include in the documented acknowledgement to the client:</p> <ul style="list-style-type: none"> o That they may receive compensation in some form from the insurer or other source as a result of the transaction o The name and identity of the source of compensation, and whether the producer has ownership of or is under common control with the person or entity providing the compensation o That the compensation received may differ depending on the product and insurer o The identity of any person that the broker knows will receive compensation from the insurer for assisting the broker in the insurance transaction (does not include an intermediary, managing general agent or wholesale broker acting in the normal course of production) o The name of each insurer or other person that supplied the producer with a quote that would reasonably meet the client's needs o Documented acknowledgement by both the client and producer that clearly indicates the client's understanding of the contents of the disclosure 	No form specified by state
New Jersey	<p>Written agreement required if producer is charging a fee to the client. Applies to any insurance producer or broker that receives a fee or any other consideration, other than a commission from the insurer, for the service or advice regarding policies, contracts or certificates of insurance. No fees may be charged with respect to life or health insurance.</p> <p>Disclosure must contain:</p> <ul style="list-style-type: none"> o Clear statement of the amount of the fee o Nature of the services provided by the fee o Statement whether a commission will be received from the insurer upon the purchase of the insurance 	No form specified by state
New York	<p>All compensation arrangements between insurer and producer must be disclosed in writing to the insured prior to the purchase, regardless whether the producer is charging the client a fee.</p> <p>Broker service fee agreements must be separate from premium finance agreements, and all broker fees must be clearly delineated from all other fees or expenses charged to the insured, including those that may be a percentage of a premium.</p> <p>Any undisclosed receipt of compensation including commission may be considered by the state as a dishonest practice</p>	No form specified by state
Oregon	(no difference from the NAIC Producer Compensation General References– see top of grid)	
Rhode Island	<p>If the compensation received is limited to commissions paid by the insurer, the producer must prior to or during policy delivery disclose to the customer that they will receive a commission. If the producer may receive any other potential commission like contingent compensation, the producer must also inform the insured that they may receive performance based compensation from the insurer in addition to policy commission.</p> <p>Producers who receive compensation from an insured may not accept any form of compensation from the insurer or other 3rd party</p>	No form specified by state

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	<p>unless prior to the sale the producer provides the insured with:</p> <ul style="list-style-type: none"> ○ A description of the methods and factors utilized for calculating compensation from the insurer or other 3rd party ○ Obtains the insured's documented acknowledgement that such compensation will be received <p>Written notification is considered by the state as "best practice"</p>	
Texas	<p>Documented Acknowledgement from the customer is required prior to the purchase of insurance. It must:</p> <ul style="list-style-type: none"> ○ Include the date and recorded authorization (either written, verbal or electronic) from the customer ○ Contain an acknowledgement from the customer that the compensation (including commissions, fees, awards, overrides, bonuses, contingent commissions or other valuable considerations) will be received by the agent or affiliate ○ Provide a description of the method and factors used to compute the compensation to be received from the insurer or other third party for the placement of the insurance. 	No form specified by state
Washington	<p>Written disclosure required before a "product decision"</p> <p>Disclosure of all compensation including any additional fees must be complete and in an understandable form explaining:</p> <ul style="list-style-type: none"> ○ that there will be a charge for services ○ the basis on which the charges will be determined. 	No form specified by state
Wisconsin	<p>Written disclosure required before the client is obligated to pay any compensation</p> <p>Minimum disclosure by the producer or broker:</p> <ul style="list-style-type: none"> ○ The amount of compensation the customer must pay the producer or broker for his services ○ If the producer or broker will also receive compensation from another source including any compensation from the issuing insurer <p>Encouraged to provide additional "best practices" disclosures:</p> <ul style="list-style-type: none"> ○ A description of the nature of the compensation arrangements with the insurer including any commission or contingent commission arrangements ○ A description of how the customer may request additional information 	No form specified by state